

BY-LAWS OF THE CITY PLANNING COMMISSION OF THE CITY OF BATTLE CREEK

ARTICLE I POWERS AND DUTIES

The powers and duties of the City Planning Commission of the City of Battle Creek are those set forth in Act ~~28533~~ of the Public Acts of ~~1931~~2008, as amended, together with those powers and duties delegated to it by Section 1.55 of the 1975 Compiled ordinances of the City of Battle Creek as approved, adopted pursuant to and in accordance with Act 285 of the Public Acts of 1931, as continued and amended by Act 33 of the Public Acts of 2008.

ARTICLE II MEMBERS

Section 1. Membership. The Planning Commission shall consist of nine (9) members appointed by the Mayor, subject to the approval by a majority vote of the members of the City Commission elected and serving. Members may include the City Manager or a person designated by the City Manager, if any, the Mayor and one or more members of the City Commission, or any combination thereof, as ex officio members; however, not more than one-third of the members of the Planning Commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the Planning Commission. [MCL 125.3815 (1), (2) and (5).] the Mayor, one member of the City Commission to be selected by it, as ex officio members, and seven (7) persons who shall be appointed by the Mayor, subject to the approval, by a majority vote, of the members of the City Commission.

Members of a Planning Commission shall be qualified electors of the local unit, except that one Planning Commission member may be an individual who is not a qualified elector of the City. [MCL 125.3815 (4)(c).]

One member of the zoning board of appeals may be a member of the Planning Commission [MCL 125.3601 (4)]; however that member shall not participate in a public hearing on or vote on the same matter that they voted on as a member of the other board/commission. However the member may consider and vote on other unrelated matters involving the same property. [MCL 125.3601 (13)]

Members of the Planning Commission shall serve without compensation. ~~and appointed members shall hold no other Municipal office, except that one of such appointed members may be a member of the Zoning Board of Appeals. The terms of ex officio members shall correspond to their respective official tenures.~~

The term of each appointed member shall be three years or until his or her successor takes office. The terms of ex officio members shall correspond to their respective official tenures.

Section 2. Removal. ~~Subject to approval by the~~ The City Commission, ~~the Mayor~~ may remove a member of the Planning Commission for misfeasance, inefficiency, neglect of duty, or malfeasance, or nonfeasance in office upon written charges and after a public hearing. ~~Nonfeasance~~ ~~neglect of duty~~ may include chronic absenteeism which shall apply when a member misses more than ~~four~~ six (46) meetings ~~during one year or his or her term~~. ~~All removals shall be made pursuant to notice and an opportunity to be heard before the City Commission.~~ [MCL 125.3815 (9).]

Section 3. Vacancies. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor in the case of members selected or appointed by him or her, and by the City Commission in the case of the City Commission member.

ARTICLE III

OFFICERS AND THEIR DUTIES

Section 1. Selection. At the regular scheduled meetings in ~~July~~ January of each year, which shall be held on the fourth Wednesday of the month, the Planning Commission shall select from its membership a Chairperson, ~~and~~ Vice-Chairperson and Secretary. All officers are eligible for re-election. ~~No officer shall serve in one capacity for more than two consecutive terms.~~

Section 2. Tenure. The Chairperson, ~~and~~ Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

Section 3. Chairperson. The Chairperson shall be elected from among the appointed members of the City Planning Commission. An ex officio member of the planning commission is not eligible to serve as chairperson. He or she shall preside at all meetings and hearings of said Commission and shall have and perform the duties usually incident to the office of the Chairperson. He or she shall decide, subject to these by-laws, all questions of order and procedure, unless otherwise directed by a majority of said Commission in session at the time, and shall have the privilege of discussing all matters before said Commission and of voting thereon.

Section 4. Vice-Chairperson. The Vice-Chairperson shall be elected from among the appointed members of the City Planning Commission, and shall act for the Chairperson in his or her absence. An ex officio member of the planning commission is not eligible to serve as vice-chairperson.

Section 5. Secretary. The Secretary shall be elected from among the members of the City Planning Commission. [Insert other duties of the Secretary.] [MCL 125.3817 (1).]

Section 65. Other Duties. Other duties of the Chairperson, ~~and~~ Vice-Chairperson, ~~and~~ Secretary shall be such as the City Planning Commission shall from time to time prescribe by formal action.

Section 67. Executive Secretary. The Director of Planning shall serve as the Executive Secretary to the Planning Commission. He or she shall keep a record of the resolutions, transactions, findings and determinations of said Commission, which record shall be a public record; shall prepare, under supervision of the Chairperson, the agenda for all regular and special meetings of said Commission; shall provide notice of all meetings of said Commission; and shall have and perform such other duties as are usually incident to the office of secretary.

All communications, petitions and reports shall be addressed to the Planning Commission and delivered or mailed to the Executive Secretary.

The Executive Secretary of the Planning Commission shall not be a member of said Commission, and shall have no voting privileges.

ARTICLE IV **NOMINATION AND ELECTION OF OFFICERS**

~~**Section 1. Nomination and Election Each July.** The officers of the City Planning Commission shall be nominated and elected annually by and from the regular members of said Commission at the annual meeting of said Commission, which shall be held on the fourth Wednesday of July in each year.~~

Section 12. Term of Office. A candidate receiving a majority vote of the entire membership of said Commission shall be declared elected, and shall hold office for one (1) year, or until his or her successor shall take office, with eligibility for re-election.

Section 23. Vacancies. Vacancies in office shall be filled for the unexpired term by regular election procedure at the next regular meeting following such vacancy, or at a special meeting called for that purpose.

ARTICLE V **MEETINGS**

Section 1. Open Meetings Act. All meetings of the City Planning Commission shall conform to the requirements of Public Act 267 of 1967, as amended, that being the Open Meetings Act.

Section 2. Number of Required Annual Monthly Meetings Requirement. The City Planning Commission shall hold not less than four (4)~~at least one (1)~~ regular meetings each ~~year.~~~~month.~~~~[MCL 125.3821 (1).]~~

Section 3. Regular Meeting Date. Regular meetings of said Commission shall be held on the fourth Wednesday in each month, at 4:00 p.m., in Room 302 of the City Hall, or at a designated place duly noticed.

Section 4. Voting Requirements. A majority, or five (5) members of said Commission, shall be necessary to constitute a quorum, and must be present before business may be transacted. Provided, however, that an affirmative vote of at least six (6) members of the Commission shall be necessary for the adoption or amendment of the master plan.

Section 5. Special meetings. Special meetings of the Commission shall be held at any time upon call of the Chairperson, and shall be called by him or her upon written request of at least three (3) members of said Commission. All special meetings shall conform to the requirements of the Open Meetings Act. (P.A. 267 of 1976, as amended.)

Section 6. Notice. Written notice of the time, place and purpose of any special meeting shall be given to each member by the Secretary, not less than ~~forty-eight~~^{twenty-four} (48²⁴) hours in advance of such meeting. [MCL 125.3821 (1).]

Section 7. Business Conducted Restricted. The business considered or transacted at any special meeting shall be restricted to that stated in the notice or call, unless by consent of at least five (5) members present at such meeting.

Section 8. Majority for Voting Purposes. Except as herein otherwise provided, when a quorum is present, a majority vote (~~3 votes~~) shall be sufficient to pass any motion or resolution at any meeting of said Commission.

Section 9. Conflict of Interest.

- (a) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from discussion or voting on that matter in his or her capacity as a Commission member.
- (b) Even if the member does not disqualify himself or herself based upon a conflict of interest, the member may be disqualified from discussion or voting on that matter in his or her capacity as a Commission member by a majority vote of the remaining members of the Planning Commission.
- (c) Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.
- (d) "Conflict of interest" shall be defined as a Commission member who is pecuniarily or personally interested in a matter presented for action. [MCL 125.3815 (9).]

~~A Commission member who is pecuniarily or personally interested in a matter presented for action by the Commission shall not discuss nor vote on that matter in his or her capacity as a Commission member.~~

Section 10. Robert's Rules of Order Govern. Parliamentary practice at the meetings of said Commission shall be governed, where applicable, by Roberts Rules of Order, except where in

conflict with the laws of the State of Michigan, the Charter or ordinances or the City of Battle Creek, or these by-laws.

ARTICLE VI

ORDER OF BUSINESS

The order of business at all regular meetings of the City Planning Commission, as far as practicable, shall be as follows:

1. Call to order.
2. Roll call.
3. Correction and approval of minutes of previous meeting.
4. Correspondence.
5. Additions to the Agenda.
6. Public Hearings.
7. Old Business.
8. New Business.
9. Comments by the Public.
10. Comments by the Members.
11. Adjournment.

This order of business may be changed at any time upon consent of a majority of members present.

ARTICLE VII

COMMISSION BUSINESS

Section 1. Planning Commission Matters. The following matters shall be presented for consideration in a meeting of the City Planning Commission:

- (a) Preparation and adoption of a master plan for the physical development of the City, including any areas outside of its boundaries which, in said Commission's judgment, bear relations to the planning of the City, or the adoption of any part or extension thereof, or amendment or addition thereto. Any resolution adopting or revising the master plan shall refer expressly to the maps and narrative and other matter intended by said Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and narrative matter by the identifying signature of the Executive Secretary of said Commission. An attested copy of the plan or part thereof shall be certified to the City Commission and to the County Register of Deeds.
- (b) Petitions and staff proposals for changes in the Zoning Ordinance and for Special Use Permits.

- (c) Preliminary plans and reports for the physical development of the City, including the general location, character and extent of streets, viaducts, bridges, parks and open spaces, the general location of public buildings and other public property, the general location and extent of public utilities and terminals.
- (d) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, open spaces, buildings, or properties.
- (e) The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
- (f) Land subdivision plans.
- (g) All planning reports and plans for publications.

(h) All capital improvement programs for the City.

~~Site plans for a land use or activity regulated by the Zoning Code of the City of Battle Creek when the proposed land use or activity is to be situated on the property comprised of more than five (5) acres.~~

~~(i) The annual written report to the City Commission concerning its operations and the status of planning activities, including recommendations regarding actions by the City Commission related to planning and development. [MCL 125.3817 and 125.3819.]~~

(j) Such matters as the Executive Secretary shall find advisable or essential to receive consideration by the Planning Commission.

Section 2. Commission Business Not Limited By Section 1. Section One of this Article shall in no way limit the business of the Commission.

ARTICLE VIII

EMPLOYEES

The City ~~Planning~~ Commission may appoint such employees as it may deem necessary for ~~the Planning Commission's~~ work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of the law as govern other corresponding civil employees of the City of Battle Creek. ~~The City Said~~ Commission may also contract with City planners, engineers, architects, and other consultants for such services as it may require. The expenditures of said Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Commission, which shall provide the funds, equipment, and accommodations necessary for the Commission's work. [MCL 125.3825 (1).]

ARTICLE IX

PUBLIC HEARINGS

Section 1. Public Hearings; Notice. The Planning Commission shall hold a public hearing in the following instances:

1. Adoption or amendment of the master plan or any part thereof.
2. Considerations of Special Use Permits.
3. Consideration of Zoning Code Amendments.

Notice of the time and place of the hearing shall be given, according to Michigan statute.

Section 2. Other Public Hearings. In addition to those public hearings required by law, the City Planning Commission may, in its discretion, hold public hearings when it deems such hearings to be in the best interest of the public.

Section 3. Notice. Notice of such hearings shall be published in the official newspaper of the City, or in a newspaper of general circulation, at least fifteen (15) days prior to such hearing.

Section 4. Presentations Before Planning Commission. Matters of business before the City Planning Commission shall be presented in summary by the Chairperson, or by a member of said Commission, as designated by the Chairperson. Any interested spokesperson may address the Commission, consistent with Robert's Rules of Order.

ARTICLE X

AMENDMENTS

These by-laws may be altered or amended by a two-thirds vote of the entire membership of the City Planning Commission, notice of hearing having been given in writing of the proposed alteration or amendment at a previous meeting of said Commission.